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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/672,716 | 09/26/2003 | Donald E. Weder | 8403.995 | 1148 |
| 30589 | 7590 | 07/02/2004 | EXAMINER | |
| DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113 | | | GELLNER, JEFFREY L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3643 | |

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|--|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/672,716 | WEDER, DONALD E. DP | |
| | Examiner | Art Unit | |
| | Jeffrey L. Gellner | 3643 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3643

DETAILED ACTION

Acknowledgement is made of Applicant's Supplemental IDS entered 26 September 2003.

A signed, completed 1449 will accompany the next office action.

Specification

The disclosure is objected to because of the following informalities:

The "RELATED REFERENCES" section should be updated to show that 10/300,295 is now abandoned.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,564,507 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to method of wrapping a floral grouping comprising a sheet of material

with embossed and printed patterns. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of US 6,564,507 B2 by using the sheets as a pad so as to make use easier and to add a detaching element so as to suit consumer demand.

Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,752,360. Although the conflicting claims are not identical, they are not patentably distinct from each other because both claims are drawn to method of wrapping a floral grouping comprising a sheet of material with embossed and printed patterns.

Claim Rejections - 35 USC §103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Wallerstein et al. (US 3,271,922; document BT on Applicant's 1449) in view of Roland (WO 90/14998).

As to Claim 1, Wallerstein et al. discloses a pad of sheets for wrapping a floral grouping (Figs. 1-5) comprising a pad of sheets (col. 2 lines 22-26; A of Figs. 1-5) made of paper (col. 22-25) with a printed pattern (for example "PETL-PAC" of Figs. 1 and 2) on at least a portion of the one of the surfaces; and, a floral grouping (F of Fig. 3). Not disclosed is an embossed pattern embossed on at least a portion of one of the upper and lower surfaces. Roland discloses using an

Art Unit: 3643

embossed wrapping paper (abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sheets of Wallerstein by adding embossing as disclosed by Roland so as to meet consumer demand for detailed designs to enhance the aesthetic appeal of the wrapper. The pad of sheets of Wallerstein et al. as modified by Roland inherently perform the method steps recited in claim 1.

As to Claim 2, Wallerstein et al. as modified by Roland further disclose the wrapper with both lower and upper ends open (Fig. 5 of Wallerstein et al.), the wrapper encompasses a substantial portion of the floral grouping (Fig. 5 of Wallerstein et al.), the stem end extends through the open lower end and the bloom end is exposed via the open upper end of the wrapper (Fig. 5 of Wallerstein et al.).

As to Claim 3, Wallerstein et al. as modified by Roland further disclose a portion of the sheet of material overlapping an adjacent portion of the sheet of material to form the wrapper (Fig. 5 of Wallerstein et al.).

As to Claim 4, Wallerstein et al. as modified by Roland further disclose a conical shape (Fig. 5 of Wallerstein et al.).

As to Claims 5-7, the limitations of Claim 1 are disclosed as described above. Not disclosed are the embossed and printed patterns in, not in, or partially in registry with one another. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the embossed and printed patterns of Wallerstein et al. as modified by Roland by having the embossed and printed patterns in, not in, or partially in registry with one another so as to meet consumer demand.

As to Claim 8, Wallerstein et al. discloses a pad of sheets for wrapping a floral grouping (Figs. 1-5) comprising a pad of sheets (col. 2 lines 22-26; A of Figs. 1-5) made of paper (col. 22-25) with a printed pattern (for example "PETL-PAC" of Figs. 1 and 2) on at least a portion of the one of the surfaces; an bonding material (11 of Figs. 1-5) and, a floral grouping (F of Fig. 3). Not disclosed is an embossed pattern embossed on at least a portion of one of the upper and lower surfaces. Roland discloses using an embossed wrapping paper (abstract). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sheets of Wallerstein by adding embossing as disclosed by Roland so as to meet consumer demand for detailed designs to enhance the aesthetic appeal of the wrapper. The pad of sheets of Wallerstein et al. as modified by Roland inherently perform the method steps recited in claim ~~8~~⁸.

As to Claim 9, Wallerstein et al. as modified by Roland further disclose the wrapper with both lower and upper ends open (Fig. 5 of Wallerstein et al.), the wrapper encompasses a substantial portion of the floral grouping (Fig. 5 of Wallerstein et al.), the stem end extends through the open lower end and the bloom end is exposed via the open upper end of the wrapper (Fig. 5 of Wallerstein et al.).

As to Claim 10, Wallerstein et al. as modified by Roland further disclose a conical shape (Fig. 5 of Wallerstein et al.).

As to Claim 11, the limitations of Claim 8 are disclosed as described above. Not disclosed is the bonding material a pressure sensitive adhesive. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sheets of Wallerstein et al. as modified by Roland by using a pressure sensitive adhesive instead of a

Art Unit: 3643

cohesive when it is desired to attach the floral grouping to the sheet (see Wallerstein et al. at col. 1 lines 31-36) so as to suit consumer demand and to secure the floral grouping the wrapper.

As to Claims 12-14, the limitations of Claim 1 are disclosed as described above. Not disclosed are the embossed and printed patterns in, not in, or partially in registry with one another. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the embossed and printed patterns of Wallerstein et al. as modified by Roland by having the embossed and printed patterns in, not in, or partially in registry with one another so as to meet consumer demand.

Conclusion

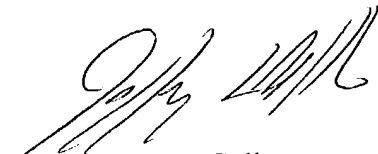
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP57-63288 and EP 449012 A1 disclose in the prior art various sheets with printed and embossed designs. Benoit disclose in the prior art a pad of wrappers. Weder ('581 A1) discloses the instant application's pre-grant publication.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Art Unit: 3643

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner